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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/533,263	03/17/2000	Wilbur J. Walkoe JR.	8285/347	7066
757	7590	01/28/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE			PIZARRO, RICARDO M	
P.O. BOX 10395			ART UNIT	
CHICAGO, IL 60610			PAPER NUMBER	
			2661	

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/533,263	Applicant(s) WALKOE ET AL.	
	Examiner Ricardo Pizarro	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-48, 54-61 is/are allowed.
- 6) ☒ Claim(s) 27-42 and 49 is/are rejected.
- 7) ☒ Claim(s) 43-45 and 50-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 27-36, 37-39, 42, 49, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin.

US patent No. 5,635,980 (Lin et al) discloses a system for CPE broadband interface, comprising an analog telephone line (analog telephone lines 150 in Fig. 2) having analog voice signal carried by a subscriber loop and a digital line (digital line ports 148 in Fig. 2) sharing said subscriber loop with said analog telephone line, said digital line having a digital channel, as in claims 27, 37, 42, 49; wherein the analog telephone line and the digital data line simultaneously provide two or more voice channels over the subscriber loop, as in claim 28; wherein the analog telephone line comprises a POTS line, (col 2 line 47) as in claim 29; wherein the digital data line comprises a high capacity digital subscriber line (col 2 line 56), as in claim 30; wherein the digital data line comprises an asymmetric digital subscriber line (col 2 line 56), as in claim 31; wherein the digital data line comprises an ATM protocol (col 1 line 43), as in claim 33; wherein said digital voice channel is carried by an ATM protocol (col 1 line 43. broadband can be ATM) as in claim 35; a central office switch, as in claim 38; a digital carrier line including a digital carrier system, as in claim 39;

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Lin did not specifically disclose said digital channel being used for placing telephone voice calls as in claims 27, 37, 42 and 49.

However Lin disclosed a plurality of digital line ports (148 in Fig. 2).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to that the Lin would have been capable of placing voice calls through the digital 160 in Fig. 2 with the motivation of obtaining a premises equipment capable of interfacing with broadband networks.

2. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of McHale..

Lin did not specifically disclose means for separating analog voice signal from digital data signals, as in claim 40; said means is a splitter, as in claim 41.

US patent No. 5,668,857 (McHale) discloses a communication apparatus comprising means for separating analog voice signal from digital data signals (splitter 25 in Fig. 1) , as in claim 40; said means is a splitter (splitter 25 in Fig. 1), as in claim 41.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the splitter means as disclosed by McHale to the system disclosed by Lin to obtain a communication system capable of providing data services to subscribers using a reduced number of DSL facilities.

Allowable Subject Matter

3. Claims 46-48, 54-61 are allowed

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4. Claims 43-45, 50-53 ,are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Please also notice objection to claims.

Conclusion

5. A new non final is being issued due to Priority date of parent case (11/1/96) of the current application overcoming filing date of the Whittaker reference used in previous Office Action.

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20th Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9306.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kenneth Vanderpuye** can be reached on (571) 272-3078.

January 21, 2005

Ricardo M. Pizarro



KENNETH VANDERPUYE
PRIMARY EXAMINER